

### **REMARKS**

The present application has been reviewed in light of the Office Action mailed June 15, 2005. Claims 1-8 are pending in the application. Claim 7 has been canceled without prejudice. New claims 9-15 have been added and are discussed below. Reconsideration of the present application, as amended, is respectfully requested.

The Examiner objects to the drawings as allegedly failing to show every feature of the invention specified in the claims. Specifically, claim 7 recites "An electrode and nozzle assembly as recited in Claim 1, further including a dielectric tube positioned within the port." The Examiner is requiring that the dielectric tube must be shown in the drawings or the feature cancelled from the claims.

In response, the applicants have cancelled claim 7 without prejudice. The applicants have not abandoned the subject matter of claim 7 and reserve the right to file a continuation application directed thereto.

Consequently, the applicants respectfully request the Examiner to withdraw the objections to the drawings.

The Examiner asserts that Claim 1 of U.S. Patent 6,602,248 issued on August 5, 2003 to Sharps et al. allegedly renders unpatentable claims 1-8 under the judicially created doctrine of obviousness-type double patenting.

The Examiner asserts that claims 1-8 are broader than claim 1 of the reference but they are not patentably distinct. The Examiner suggests that in view of *In re Goodman*, a terminal disclaimer will overcome the rejection of obviousness-type double patenting.

In response, the applicants respectfully call to the Examiner's attention that it appears that the Examiner intended to refer to U.S. Patent 6,602,249 issued on August 5, 2003 to Stoddard et al., rather than U. S. Patent 6,602, 248 issued to Sharps et al. The instant application claims priority from U.S. Patent Application Serial No. 09/712,538 filed on November 14, 2000 by Stoddard et al. which issued as U.S. Patent No. 6,602,249 B1 on August 5, 2003. Therefore, the applicants are basing their response to the instant Office Action on this premise.

In addition, the applicants have identified an error in Claim 8 of U.S. Patent 6,602,249. The applicants respectfully call to the Examiner's attention that the applicants are concurrently filing with this response a Petition Under 37 C.F.R. §1.322 to Issue Certificate of Correction and USPTO Form PTO/SB/44 "UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION" to correct said error in Claim 8 of U.S. Patent 6,602,249 issued to Stoddard et al.

With respect to the instant rejection of obviousness-type double patenting, the applicants are concurrently filing with this response USPTO Form PTO/SB/26 "TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A 'PRIOR' PATENT" with respect to U.S. Patent 6,602,249 issued on August 5, 2003 to Stoddard et al.

In addition, the applicants have added new Claims 9-15 which depend from Claim 8 in the instant application. Support for the addition of the new Claims 9-15 is found in the specification beginning on page 9, line 10, to page 11, line 2. Therefore, no new matter has been added.

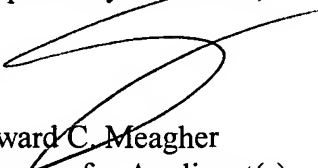
Consequently, in view of the concurrently filed terminal disclaimer with respect to U.S. Patent 6,602,249, the applicants respectfully request that the Examiner withdraw the rejection of Claims 1-6 and 8.

It is respectfully submitted that all of the claims now pending in this application, namely Claims 1-6 and 8-15 are in condition for allowance. Accordingly, early and favorable reconsideration of this application and issuance of a Notice of Allowance are respectfully requested. Should the Examiner feel that a telephone or personal interview may facilitate resolution of any remaining matters, he is respectfully requested to contact the Applicants' attorney at the number indicated below.

Please charge the required fee of \$130.00 to cover the Terminal Disclaimer to Deposit Account No. 21-0550.

Please charge any deficiency as well as any other fee(s) which may become due under 37 C.F.R. § 1.16 and/or 1.17, at any time during the pendency of this application, or credit any overpayment of such fee(s), to Deposit Account No. 21-0550. TWO (2) COPIES OF THIS SHEET ARE ENCLOSED.

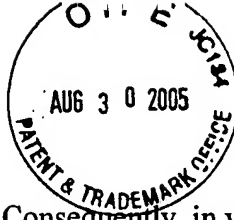
Respectfully submitted,



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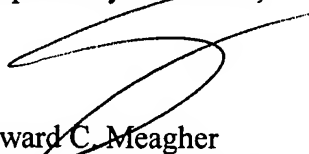
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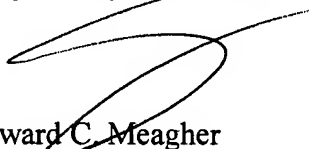
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